



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

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DEC 16 2010

OFFICE OF  
WATER AND WATERSHEDS

Becca Conklin  
Washington Department of Ecology  
Surface Water Quality Standards  
P.O. Box 47600  
Olympia, WA 98504-7600

Dear Ms. Conklin:

Thank you for the opportunity to comment on Washington's Surface Water Quality Standards Triennial Review contained at WAC 173-201A. The Washington State Department of Ecology (Ecology) initiated the Triennial Review process in November 2010, through a series of public meetings. EPA Region 10 staff attended the meetings on November 4, 2010 in Lacey and November 15, 2010 in Vancouver. Ecology describes the Triennial Review as an opportunity for the public to review the water quality standards (WQS) and provide feedback on the priorities and commitments the agency makes regarding the standards. It is also an opportunity for an open dialogue between Ecology, other government agencies, tribes, and the public on how to improve the standards and how Ecology implements the program.

Our comments highlight requirements and considerations relevant to Triennial Reviews of WQS. Section 303(c)(1) of the Clean Water Act (CWA) and its implementing regulations at 40 C.F.R. 131 require that states shall, from time to time, but at least once every three years, hold public hearings to review applicable water quality standards and as appropriate, modify and adopt standards. EPA's *Water Quality Standards Handbook* (Handbook) provides guidance as to how states should conduct their Triennial Reviews. The Handbook explains that states should identify additions or revisions necessary to existing standards based on their 305(b) reports, other available water quality monitoring data, previous WQS reviews, or requests from industry, environmental groups, or the public. The Handbook further indicates that states should review the general provisions of their WQS for adequacy taking into consideration new federal or State statutes, regulations, or guidance; legal decisions involving applications of standards; or other necessary clarifications or revisions. WQS reviews and revisions may take many forms, including additions to and modifications in uses, in criteria, in the antidegradation policy, or in other general policies. We understand that this review has been initiated pursuant to this requirement.

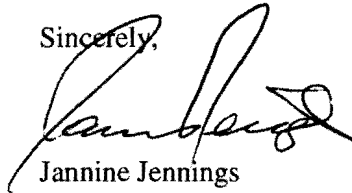
The WQS regulation at 40 C.F.R. 131.11(a) requires states to adopt water quality criteria to protect all designated uses. Such criteria must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use. EPA urges Ecology to make the revision of Washington's human health criteria the most important priority in this Triennial Review. We are aware that you have been following the work previously underway in Oregon to make such revisions. The State of Oregon plans to adopt final criteria and implementation provisions in the summer of 2011. To avoid duplication of efforts, we recommend that you consult with the State of Oregon as you move forward. Since this is a priority for EPA Region 10, we are available and willing to work closely with you throughout your human health criteria update process.

Washington's human health criteria were issued by EPA in 1992 through the National Toxics Rule (NTR). The human health criteria are not in the State's WQS and Washington is one of a handful of states remaining in the NTR for human health criteria. In 2000, EPA updated its methodology for deriving human health criteria.<sup>1</sup> In that document, instead of using a fish consumption rate of 6.5 grams per day in deriving criteria, EPA recommended that states and tribes either (1) use a fish consumption rate that accurately represents the population to be protected by the criteria if state/site-specific data is available or (2) use a fish consumption rate of 17.5 grams per day if no state/site-specific information is available. EPA believes that a fish consumption rate of 6.5 grams per day is not reflective of fish and shellfish consumers in the State of Washington. Ecology should examine the most recent EPA criteria documents as well as other technical developments and studies to determine an appropriate fish consumption rate that would result in criteria protective of the State's designated uses.

In addition, EPA recommends that Ecology use this Triennial Review to determine if regulatory revisions to the State's freshwater dissolved oxygen criteria are needed. As part of the Endangered Species Act consultation on EPA's 2006 approval of Washington's WQS revisions, Ecology agreed to review the State's freshwater dissolved oxygen criteria. In September 2009, Ecology published *A Review and Discussion of Freshwater Intergravel Criteria Development*.<sup>2</sup> EPA suggests that Ecology identify whether they will pursue a criteria change pursuant to the findings in this report as well as any other scientific information or comments received. If Ecology decides to make a regulatory revision, EPA is willing to work with the State and provide technical assistance.

Again, thank you for the opportunity to comment on Washington's current Triennial Review. We look forward to engaging with you throughout the continuation of this process. If you have any questions or wish to discuss this matter further, please call me at (206) 553-2724 or Matthew Szelag at (206) 553-5171.

Sincerely,



Jannine Jennings  
Water Quality Standards, Unit Manager  
Office of Water & Watersheds

cc: Susan Braley, Chad Brown, Melissa Gildersleeve, Cheryl Niemi, Ecology  
Jennifer Wigal, ODEQ

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<sup>1</sup> EPA. 2000. *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health*. U.S. Environmental Protection Agency, Office of Water, Washington, D.C. EPA-822-B-00-004. Available at: <http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf>.

<sup>2</sup> Department of Ecology. September 2009. *Washington State Dissolved Oxygen Standard: A Review and Discussion of Freshwater Intergravel Criteria Development*. Publication No. 09-03-039. Available at: <http://www.ecy.wa.gov/pubs/0903039.pdf>.